

**REMARKS/ARGUMENTS**

Claims 1-21 are present in this application. By this Amendment, claims 1, 9 and 17 have been amended, and claim 21 has been added. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

At the outset, Applicant extends his appreciation to Examiner Patel for his courtesy in conducting the telephone interview with Applicant's representative. During the interview, Applicant's representative discussed the outstanding rejections and proposals for response. Applicant respectfully submits that each of the issues raised in the Office Action and discussed during the telephone interview have been addressed herein (as further discussed below), and the application is in condition for allowance.

The specification was objected to due to the format of the independent claims. Claims 1, 9 and 17 have been amended herein to separate each step of the claim by a line indentation. Withdrawal of the objection is requested.

Claims 1-20 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. This rejection is respectfully traversed.

With regard to the invention falling within the "technological arts," independent claims 1 and 9 have been amended to define a method of comparing mutual funds utilizing processing structure (that is, structure that performs processes such as determining . . . , ranking . . . , referencing . . . , and the like). As discussed during the interview, support for this amendment can be found in the specification at, for example, page 9, lines 7-12. In this context, the specification describes a system for comparing

mutual funds that includes structure for determining a power spectral density (PSD) of respective mutual funds according to fund cumulative growth (G) and fund stability (S), and structure for ranking the mutual funds from highest to lowest power spectral density. Applicant respectfully submits that those of ordinary skill in the art could readily ascertain what “structure,” such as a computer or other processing structure, would be suitable for carrying out the described method. Indeed, the basic functions and capabilities of a computer, for example, are of course well established, and those of ordinary skill in the art would immediately appreciate that the “structure” referenced in the specification encompasses a computer or other general processing structure.

The Federal Circuit has provided that “if a person of ordinary skill in the art would have understood the inventor to have been in possession of the claimed invention at the time of filing, even if every nuance of the claims is not explicitly described in the specification, then the adequate written description requirement is met.” *In re Alton*, 37 USPQ2d 1578, 1584 (Fed. Cir. 1996). See also, *In re Eickmeyer*, 602 F.2d 974 (CCPA 1979), wherein the court held:

To satisfy the description requirement [of Section 112, first paragraph], an application must contain sufficient disclosure, expressly or inherently, to make it clear to one skilled in the art that the appellant was in the possession of the subject matter claimed . . . . ‘[A] statement of appellant’s invention [in his specification] which is as broad as appellant’s broadest claims’ is sufficient to meet this requirement. (Emphasis added.)

In the present case, as discussed above, although a “computer” is not expressly described in the specification, the “structure” described for carrying out the method of the

invention would be readily appreciated by those of ordinary skill in the art to encompass a computer or other processing structure. Additional language in the specification also suggests that the method of the invention is carried out by a computer or other processing structure. See, for example, page 10, lines 4-12, describing a power spectrum of density created from data and plotted over an entire fund-spectrum to determine peak occurrences. Additionally, the specification compares use “in communications and structures” for creating a spectrum of frequency to locate (via peaks in the power spectral density plot) resonant frequencies. See also, page 14, line 23 - page 15, line 3 describing normal “Gaussian” probability analysis applied to investments found in the U.S. securities markets.

Applicant thus respectfully submits that the invention falls within the “technological arts,” and withdrawal of the rejection is requested.

With regard to the claims being limited to a practical application, as discussed during the interview, claim 1 has been amended to include a step of referencing the mutual fund ranking for guiding investors in buying and selling mutual funds. Claims 9 and 17 have been similarly amended. Support for this amendment can be found in the specification at, for example, page 7, lines 14-17; page 13, lines 18-20; and Figure 1. Examiner Patel agreed that this step, if properly supported in the specification (which as indicated has express support in the specification), would satisfy the “practical application” requirement of 35 U.S.C. §101. Applicant thus respectfully requests withdrawal of the rejection for this reason also.

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Reconsideration and withdrawal of the rejection under 35 U.S.C. §101 are  
therefore respectfully requested.

Claim 21 has been added. Support for the subject matter of new claim 21 can be  
found throughout the specification, since a mutual fund is an "investment" per se. See  
also, page 7, lines 7-17.

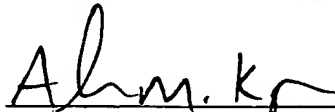
Applicant acknowledges with appreciation that there are no outstanding rejections  
over prior art.

In view of the foregoing amendments and remarks, Applicant respectfully submits  
that the claims are patentable over the art of record and that the application is in condition  
for allowance. Should the Examiner believe that anything further is desirable in order to  
place the application in condition for allowance, the Examiner is invited to contact  
Applicant's undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

Respectfully submitted,

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